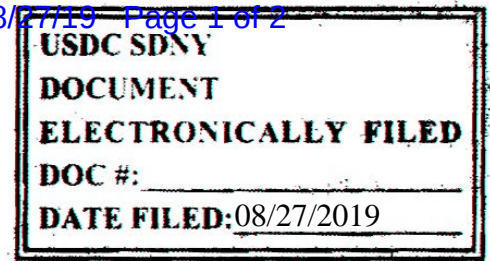




U.S. Department of Justice

United States District Court
Southern District of New York

86 Chambers Street
New York, New York 10007



August 14, 2019

The Honorable Sarah Netburn
United States Magistrate Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

**Grand Jury Matter
Request to be Filed Under Seal**

Re: In the Matter of Disclosure of Grand Jury Material in Connection with *In re Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (S.D.N.Y.) (GBD) (SN)

Dear Judge Netburn:

This Office represents the interests of the United States of America (the “Government”) in the above-referenced matter. We respectfully submit this letter in connection with a request made by the plaintiffs to the Federal Bureau of Investigation (the “FBI”) pursuant to the Department of Justice’s *Touhy* regulations, 28 C.F.R. §§ 16.21-16.29, and an accompanying subpoena to the FBI pursuant to Federal Rule of Civil Procedure 45, for, *inter alia*, financial, banking, and communication records of various individuals with alleged connections to the September 11 attacks, including two of the hijackers.

As addressed during the May 13, 2019, status conference, during the course of the investigation into the September 11 attacks, the FBI obtained, via grand jury subpoenas issued out of several different districts, bank, phone and financial records that would be responsive to the plaintiffs’ request. However, because those records were obtained via grand jury subpoena, their disclosure is governed by Federal Rule of Criminal Procedure 6(e). In particular, Rule 6(e)(3)(F) requires that a petition for disclosure of grand jury information must initially be brought in the district where the grand jury convened; but if the petition arises out of a judicial proceeding in another district, Rule 6(e)(3)(G) requires the petition to be transferred to that district (unless the initial district court can reasonably determine whether disclosure is proper). To facilitate matters, we have obtained orders from the four district courts where the responsive records were initially obtained—the District of New Jersey, the Eastern District of Virginia, and the Central and Southern Districts of California—transferring these matters to the Southern District of New York for a determination as to whether disclosure is proper. The transfer orders from each of those courts, which themselves are under seal, are attached.

The plaintiffs are now in a position to petition this Court for disclosure of these records, upon the necessary showing of “particularized need” under Rule 6(e)(3)(E)(i). *See, e.g., Douglas Oil Co. v. Petrol Stops Nw.*, 441 U.S. 211 (1979). We believe that an assessment of the plaintiffs’ petition for disclosure of these records, and consideration of any potential objections, is within the scope of Your Honor’s management of pre-trial issues in the *In re Terrorist Attacks* MDL.

Because this relates to a grand jury matter, the Government has filed this letter and its attachments under seal. *See* Fed. R. Crim. P. 6(e)(6). But because this letter does not reveal the substance of any grand jury information, the Government respectfully requests that the Court order that this letter (but not the attachments) be served on the parties to the *In re Terrorist Attacks* MDL to provide them notice of the status of this matter, and order that this letter (but not the attachments) be filed on the 03 MDL 1570 docket. In addition, so that we may deal adequately with this issue, and any other matters that may arise regarding grand jury records, we request that the Court authorize the attorneys from the Civil Division of this Office who now and in the future may be handling this case, as well as their supervisors, to have access to any grand jury records that may be at issue in this case.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

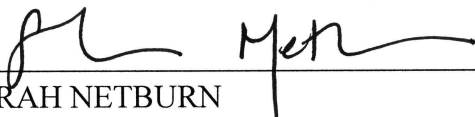
By: /s/ Andrew E. Krause
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Enclosures

For the reasons set forth above, it is ORDERED that this letter and its attachments be filed under seal, except that a copy of the letter (without attachments) may be served upon the parties and publicly filed in In re Terrorist Attacks on September 11, 2001, No. 03-MDL-1570 (S.D.N.Y.) (GBD) (SN); and it is FURTHER ORDERED that the Civil Division attorneys who now and in the future may be handling this case, as well as their supervisors, may have access to any grand jury records that may be at issue in this case.

SO ORDERED.

August 27, 2019
New York, New York


SARAH NETBURN
United States Magistrate Judge